

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

IN RE:

Charles P. Jordan and Maria P. Jordan

Citibank, NA as trustee for CDMC Mortgage
Pass-Through Certificates, Series 2003-9,

VS.

Charles P. Jordan and Maria P. Jordan

CHAPTER 7
CASE NO. 10-20473-FJB

MOTION FOR RELIEF FROM STAY

To the Honorable Frank J. Bailey:

Citibank, NA as trustee for CDMC Mortgage Pass-Through Certificates, Series 2003-9, your moving party in the within Motion, respectfully represents:

1. The movant has a mailing address of 1270 Northland Drive, Suite 200, Mendota Heights, MN 55120.
2. The debtors, Charles P. Jordan and Maria P. Jordan, have a mailing address of 10 Sedgewick Lane, Boxford, MA 01921.
3. On September 27, 2010, the debtors filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Massachusetts.
4. The movant is the holder of a first mortgage on real estate in the original amount of \$738,750.00 given by Charles P. Jordan and Maria P. Jordan to PHH Mortgage Services on or about September 5, 2003. Said mortgage is recorded with the Essex County (Southern

District) Registry of Deeds at Book 21701, Page 194 along with a modification agreement recorded with said records at Book 27979, Page 345 and covers the premises located at 10 Sedgewick Lane, Boxford, MA 01921. A copy of the mortgage, modification and assignments are annexed hereto and marked as Exhibit 'A'.

5. Said mortgage secures a note given by Charles P. Jordan and Maria P. Jordan to PHH Mortgage Services in the original amount of \$738,750.00.
6. The mortgage has been assigned. to the movant.
7. There is a Declaration of Homestead recorded with the Essex County (Southern District) Registry of Deeds at Book 27378, Page 442.
8. There is no other collateral securing the obligation.
9. As of October 4, 2010, approximately \$907,406.33 in principal, interest, late fees and other charges was due with regard to the note and mortgage. As a result of this motion, attorney's fees and costs of approximately \$705.00 have accrued. This figure may increase as additional attorney's fees and costs accrue.
10. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Citibank, NA as trustee for CDMC Mortgage Pass-Through Certificates, Series 2003-9	First Mortgage	\$ 907,406.33
Theodore L. Craft	Execution	\$ 4,524.54
John Pietrantonio d/b/a A.J.PLG & H	Execution	\$ 2,349.70
Bank of America, N.A.	Second Mortgage	\$ 225,000.00
Total Secured Encumbrances:		\$ 1,139,280.57

11. According to a recent market analysis obtained by your movant, the property is valued at approximately between \$770,000.00 and \$799,000.00. The liquidation value of the subject property is \$746,761.52, calculated as the fair market value less a reasonable realtor's fee (6%); deed stamps (\$3,798.48) and anticipated costs incurred for a real estate closing of \$500.00. A copy of the market analysis is attached as Exhibit 'B'.

12. The mortgage is in default for the November 1, 2008 payment, and all payments thereafter plus reasonable attorney's fees and costs and other charges incurred by the movant.

13. The movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. 362 (d)(1) for cause on the basis that the debtors are in default on their contractual obligations to this creditor and there is no equity to benefit the Chapter 7 estate; and

II. Pursuant to 11 U.S.C. 362 (d)(2) on the basis that there is no equity in the subject property and, there being no reorganization in prospect, the property is not necessary for effective reorganization.

WHEREFORE, the movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the debtors and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing, (ii) preserving its right to seek any deficiency to the extent permitted by state and federal law, including 11 U.S.C. §524(a); (iii) bringing such actions, including, without limitation, summary process proceedings, as are permissible by law; and (iv) that the Court order such other and further relief as may be just and proper.

Respectfully submitted,

Citibank, NA as trustee for CDMC Mortgage Pass-
Through Certificates, Series 2003-9,
By its Attorney

/s/ Deirdre M. Keady

Deirdre M. Keady, Esquire

BBO# 359020

HARMON LAW OFFICES, P.C.

P.O. Box 610345

Newton Highlands, MA 02461-0345

781-292-3900

Dated: October 15, 2010

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

IN RE:

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CERTIFICATE OF SERVICE

I, Deirdre M. Keady, Esquire, state that on October 15, 2010, I electronically filed the foregoing Motion for Relief from Stay with the United States Bankruptcy Court for the District of Massachusetts using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Glenn F. Russell, Esquire, for the Debtors
John Fitzgerald, Esquire, Assistant U.S. Trustee
John O. Desmond, Esquire, Chapter 7 Trustee

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Deirdre M. Keady

Deirdre M. Keady, Esquire
BBO# 359020

Charles P. Jordan
10 Sedgewick Lane
Boxford, MA 01921

Maria P. Jordan
10 Sedgewick Lane
Boxford, MA 01921

Bank of America, N.A.
Attn: Bankruptcy Department
475 Crosspoint Parkway
Getzville, NY 14068

Theodore L. Craft
c/o Lewis Jason Cohn
Cohn & Dussi, LLC
25 Burlington Mall Road, 6th Floor
Burlington, MA 01803

John Pietrantonio d/b/a A.J.PLG & HTG, CO
83 Chippy Lane
Methuen, MA 01844

Town of Boxford
Tax Collector
P.O. Box 56
Boxford, MA 01921

DJK//200905-1751/Jordan, Charles P./ Jordan, Maria P.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

In re:

Charles P. Jordan and Maria P. Jordan,

Debtors.

CHAPTER 7
CASE NO. 10-20473-FJB

**Order Granting Citibank, NA as trustee for CDMC Mortgage
Pass-Through Certificates, Series 2003-9
Relief From The Automatic Stay And Leave To Foreclose Mortgage**

This matter has come before the Court, and after full consideration, and no objections having been filed after proper notice, it is hereby ordered that Citibank, NA as trustee for CDMC Mortgage Pass-Through Certificates, Series 2003-9, its Successors and/or Assigns, Motion for Relief From the Automatic Stay is hereby granted and it may proceed to foreclose the mortgage given by to PHH Mortgage Services , dated September 5, 2003 as recorded with the Essex County (Southern District) Registry of Deeds at Book 21701, Page 194 and a modification agreement recorded with said records at Book 27979, Page 345 and which covers the premises located at 10 Sedgewick Lane, Boxford, MA 01921, and may exercise its rights under said Mortgage, including preserving its right to seek any deficiency to the extent permitted by state and federal law, including 11 U.S.C. §524(a), and may bring such actions, including, without limitation, summary process proceedings, as are permissible by law, all as set forth in its Motion.

Honorable Frank J. Bailey
United States Bankruptcy Judge

200905-1751